

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EDDIE THOMAS,

Case No. 3:23-cv-00131-ART-CLB

Plaintiff,

ORDER

v.

DR. MARKS, *et al.*,

Defendants.

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 4). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter. The Court entered a screening order on October 18, 2023. (ECF No. 6). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 9, 10). The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. (ECF No. 11).

For the foregoing reasons, IT IS ORDERED that:

1. Plaintiff's application to proceed *in forma pauperis* (**ECF No. 4**) is **GRANTED**. Plaintiff will not be required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. The movant herein is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor. This order granting leave to proceed *in forma pauperis* will not extend to the issuance and/or service of subpoenas at government expense.

3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections must pay to the Clerk of the United States District Court, District of Nevada, 20% of the preceding month's deposits to Plaintiff's account (Eddie Thomas, #96556), in the months

1 that the account exceeds \$10.00, until the full \$350.00 filing fee has been paid for this
2 action. The Clerk of the Court is directed to **SEND** a copy of this order to the Finance
3 Division of the Clerk's Office and to **SEND** a copy of this order to the attention of the Chief
4 of Inmate Services for the Nevada Department of Corrections, P.O. Box 7011, Carson
5 City, NV 89702.

6 4. The Clerk of the Court is directed to electronically **SERVE** a copy of this order
7 and a copy of Plaintiff's complaint (ECF No. 7) on the Office of the Attorney General of the
8 State of Nevada by adding the Attorney General of the State of Nevada to the docket
9 sheet. This does not indicate acceptance of service.

10 5. Service must be perfected within 90 days from the date of this order pursuant to
11 Fed. R. Civ. P. 4(m).

12 6. Subject to the findings of the screening order (ECF No. 6), within 21 days of the
13 date of entry of this order, the Attorney General's Office must file a notice advising the
14 Court and Plaintiff of: (a) the names of the defendants for whom it accepts service; (b) the
15 names of the defendants for whom it does not accept service, and (c) the names of the
16 defendants for whom it is filing the last-known-address information under seal. As to any
17 of the named defendants for whom the Attorney General's Office cannot accept service,
18 the Office must file, under seal, but must not serve the inmate Plaintiff the last known
19 address(es) of those defendant(s) for whom it has such information. If the last known
20 address of the defendant(s) is a post office box, the Attorney General's Office must attempt
21 to obtain and provide the last known physical address(es).

22 7. If service cannot be accepted for any of the named defendant(s), Plaintiff must
23 file a motion identifying the unserved defendant(s), requesting issuance of a summons,
24 and specifying a full name and address for the defendant(s). For the defendant(s) as to
25 which the Attorney General has not provided last-known-address information, Plaintiff
26 must provide the full name and address for the defendant(s).

27 8. If the Attorney General accepts service of process for any named defendant(s),
28 such defendant(s) must file and serve an answer or other response to the complaint (ECF

1 No. 7) within 60 days from the date of this order.

2 9. Plaintiff must serve upon defendant(s) or, if an appearance has been entered by
3 counsel, upon their attorney(s), a copy of every pleading, motion or other document
4 submitted for consideration by the Court. If Plaintiff electronically files a document with the
5 Court's electronic-filing system, no certificate of service is required. Fed. R. Civ. P.
6 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff mails the
7 document to the Court, Plaintiff must include with the original document submitted for filing
8 a certificate stating the date that a true and correct copy of the document was mailed to
9 the defendants or counsel for the defendants. If counsel has entered a notice of
10 appearance, Plaintiff must direct service to the individual attorney named in the notice of
11 appearance, at the physical or electronic address stated therein. The Court may disregard
12 any document received by a district judge or magistrate judge which has not been filed
13 with the Clerk, and any document received by a district judge, magistrate judge, or the
14 Clerk which fails to include a certificate showing proper service when required.

15 10. This case is no longer stayed.

16
17 DATED THIS 18th day of January 2024.

18
19
20
21
22
23
24
25
26
27
28



UNITED STATES MAGISTRATE JUDGE